

# Environmental Market Update


**BOARD DISCUSSION**
**Spotlight on Insurance Buying Patterns:**

- Increased regulation and awareness drive demand for EIL in Europe
- Limits purchased down in 2015, but continue along upward trend
- Policy premiums reflect increase in the limits being sought and coverage provided

## THE UPTAKE OF ENVIRONMENTAL COVER HAS RISEN ACROSS EUROPE

There has been a marked increase in the number of companies purchasing environmental impairment liability (EIL) cover across Europe in recent years. This has been driven by several factors, including a tightening of the environmental regulatory framework under which companies in the region are required to operate (particularly in the European Union [EU]), companies' improved understanding of the gaps in traditional insurance coverages for environmental risks, and greater activity on the part of environmental regulators.

From a regulatory perspective, the implementation of the Environmental Liability Directive (ELD) in the EU has had the greatest impact on companies operating in the region. The ELD has imposed new liabilities for environmental damage on many companies operating within the EU, as it requires them to not only prevent, but also to remedy, any significant environmental damage that has been caused. This has led to a rise in EIL insurance being sought to cover potential new environmental liabilities.

Today, companies also have a greater understanding of the gaps in traditional types of insurance cover with respect to pollution, largely due to several high-profile claims. Consequently, clients have sought out EIL policies to protect against these types of exposures, which include cover for third-party bodily injury and property damage resulting from gradual pollution, first-party clean-up, business interruption, and the costs to undertake preventative measures, among others.

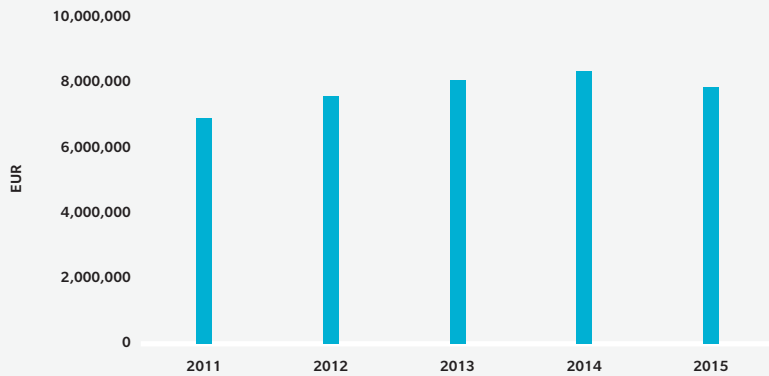
Many different regulatory regimes are now in place to ensure that the polluter pays principle is upheld, and these include requirements to prevent environmental damage from occurring and, where damage has already been caused, to ensure that the environment is effectively restored. The regulators often require that the prevention of environmental damage is proactively undertaken, and a company's ability to maintain its permit to operate may be predicated on the assessment of potential impacts that its operations may have on the environment. The environmental regulators are showing an increasing willingness to impose strict liabilities on companies for environmental damage caused, and this could potentially result in the loss of the permit to operate, which would be catastrophic for a business.

The implementation of the Environmental Liability Directive in the EU ... has led to a rise in environmental insurance being sought to cover potential new environmental liabilities.

## LIMITS SOUGHT BY BUSINESSES REDUCED SLIGHTLY IN 2015, BUT CONTINUE ALONG UPWARD TREND

**FIGURE 1** Average Limits of Indemnity

Source: Marsh Data



The buying patterns of those mid-sized companies purchasing EIL cover have also changed, with a general marked increase in the average limits of indemnity sought between 2011 and 2015. While there was a dip in the average limits of indemnity being obtained by mid-sized companies across Europe in 2015, it would appear that they are continuing the steady upward trend that has taken place since 2011, during which time they have risen from an average of EUR6.9 million to a little under EUR7.9 million (peaking at nearly EUR8.4 million in 2014).



### BOARD DISCUSSION

#### BREXIT: The Potential for Change in the Legal and Regulatory Environment

Several multinational companies buying environmental insurance to cover sites and operations in multiple jurisdictions have chosen to place an environmental master policy, with specific local policies in local countries where the regulations demand.

As such, the master policy will usually act as an umbrella policy and will be sitting on a difference in conditions (DIC) and difference in limits (DIL) basis above the local policies.

For sites and operations in the EU, this requirement has been facilitated by using the freedom of service (FOS) regulations to allow all sites in Europe to be covered under a single policy.

When the UK leaves the EU, the freedom of service directive may no longer apply and access to the single market will have to be renegotiated during the transitional period.

FOS is the right to provide business services on a cross-border basis within the EU. For insurance contracts, in particular, this means that a contract can be underwritten in an EU member country that is different from that in which the risk is located. These contracts – which are commonly used by multinational companies as a means to secure locally admitted coverage in multiple EU countries – could be affected.

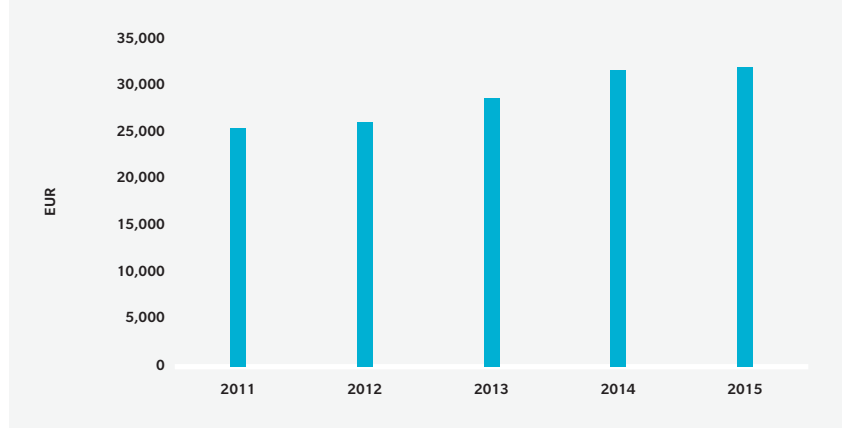
There has been a general marked increase in the average limits of indemnity sought by mid-sized companies between 2011 and 2015.

## POLICY PREMIUMS CONTINUE ALONG UPWARD TREND

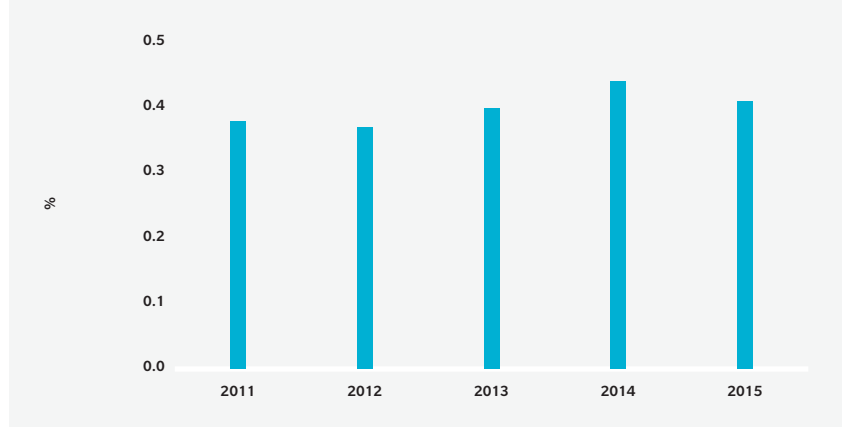
Policy premiums for environmental insurance for operational risk policies have increased slightly since 2011, and this is reflective of the increase in the limits being sought and the coverage being provided. Premium rates for environmental insurance have historically been higher than the rates shown in FIGURE 3, and where multi-year environmental policies are being renewed in the current market, premium reductions have, in many cases, been achieved.

Environmental regulations are complex and vary between different European countries. For example, some have requirements for companies to show financial security against the eventuality of causing significant environmental damage, whereas others do not. As such, many companies have chosen to have a master environmental insurance policy for operations in many geographies, with specific local policies, written in the local language and responding specifically to the local regulations in those countries of operation that demand it. With many environmental insurance markets also being able to provide these local policies in an increasing number of European countries, the structure of environmental insurance programmes is becoming more reflective of the distinct local regulatory requirements.

**FIGURE 2** Average Premium Paid  
Source: Marsh Data



**FIGURE 3** Average Premium Rate Paid  
Source: Marsh Data



Premium rates for operational risk insurance have been steady over the period and multi-year policy renewals are seeing premium reductions in many cases.

Of course, ELD requirements that operators take appropriate steps to prevent, and immediately notify the authorities of, any environmental damage that results from their operations has led to an increase in the scope for, and cost of, possible claims, as well as potential lawsuits for a failure to act. As a result, we have seen the average cost of claims steadily increase since the implementation of the ELD.



## BOARD DISCUSSION

## Rising Cost of Environmental Claims

A fire in a sodium chlorate plant resulted in extensive pollution of a local river and the destruction of the surrounding natural habitat. The cost of the environmental clean-up at the time of the fire was estimated to have been around EUR10,000. Under the current environmental regulatory regime, the estimated cost of clean-up would be around EUR4 million.

In a separate case, caused by the release of chemicals from a ruptured drainage pipe at a paper mill, the resulting damage was the total destruction of almost all the fauna and flora in the receiving waters. The cost of clean-up at the time was around EUR42,000. Were the same incident to occur today then, under the ELD, the estimated cost would be as much as EUR425,000.

Clearly, under the current environmental liability regimes put in place to protect the environment, the liabilities of business have increased by between 10 to 40 times, with costs of clean-up being defined with reference to an environmental baseline of environmental quality.

## CONTACT

### DR CLIFF WARMAN

Environmental Practice Leader, EMEA  
+44 (0)20 7357 2200  
cliff.warman@marsh.com

## ABOUT MARSH'S ENVIRONMENTAL PRACTICE

At Marsh, we recognise the need to find the right risk management solution for your environmental risks, and have a team of environmental specialists dedicated to advising clients on environmental risk management.

We can assist you in defining the key environmental risks, through to insurance advice, including proposing options for integrating specialist cover with existing insurance programmes, such as the general liability and property insurances.

Marsh's combination of strategic environmental consultancy and insurance brokerage services will guide you through the statutory and operational environmental risks that can affect your business performance.

## OUR COMMITMENT TO CLIENTS

Our experienced team consists of individuals with environmental, engineering, and insurance backgrounds, and is committed to providing strategic advice and consultancy in the areas of:

- Assessment and management of potential environmental liabilities associated with a construction project or business, such as remediation, decommissioning, and aftercare obligations.
- Definition of key environmental risks in operational businesses and review of options for effective environmental risk management.

- Effective use of environmental insurance in managing the key environmental risks and liabilities in the business.

We provide services which will allow your business to complete a comprehensive assessment of the environmental risks and allow you to derive options for the effective management of key environmental risks in operations and at times of mergers and acquisitions.

## OUR CREDENTIALS

We provide a wide range of service to clients, including:

- Providing preliminary advice on the potential role of environmental insurance and plausible premium cost estimates that may apply.
- Benchmarking studies to determine the approach of peers and related industry sectors.
- Reviewing existing insurance programmes and advising on adequacy of cover for environmental risks.
- Preparing for feasibility studies, outlining the potential role of environmental insurance in managing the specific environmental risks.
- Conducting market presentations tailored toward clients' specific requirements, and setting out the basis of quotations required from environmental insurers.
- Negotiating with selected insurers to finalise the basis of coverage.

The information contained herein is based on sources we believe reliable and should be understood to be general risk management and insurance information only. The information is not intended to be taken as advice with respect to any individual situation and cannot be relied upon as such.

In the United Kingdom, Marsh Ltd is authorised and regulated by the Financial Conduct Authority.

Marsh Ltd, trading as Marsh Ireland is authorised by the Financial Conduct Authority in the UK and is regulated by the Central Bank of Ireland for conduct of business rules.

Copyright © 2016 Marsh Ltd. All rights reserved. GRAPHICS NO. 16-0635a